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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/501,728	02/10/2000	Hiroshi Yamamoto	B208-1077	4301

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NEW YORK, NY 10017

EXAMINER

NGUYEN, CHANH DUY

ART UNIT	PAPER NUMBER
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2675

12

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/501,728

**Applicant(s)**

YAMAMOTO, HIROSHI

**Examiner**

Chanh Nguyen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

1. The amendment filed on September 25, 2003 has been entered and considered by examiner.

***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 19, 21-24 and 26-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Tanaka (U.S. Patent No. 6,329,964 B1).

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As to claim 1, Tanaka discloses an apparatus including a display unit (14) adapted to display a first image for a left eye (i.e. image is displayed on the left LCD 14) and a second image for a right eye (i.e. image is displayed on the right LCD 14). Tanaka teaches a first detecting element (left element 16 or left element 81 in Figure 8) adapted to detect a brightness around the left eye and a second detecting element (right element 16 or right element 81 in Figure 8) adapted to detect a brightness around the right eye (see column 5, lines 19-39 and column 6, lines 31-40). Tanaka teaches a first brightness adjusting unit (left unit 17) adapted to adjust a brightness of the first image according the brightness detected by the first detecting element (left element 16 or left element 81 in Figure 8) and a second brightness adjusting unit (right unit 17) adapted to adjust a brightness of the first image according the brightness detected by the second detecting element (right element 16 or right element 81 in Figure 8) (see column 5, line 46 through column 6, line 30).

As to claim 21, Tanaka clearly teaches the a first detecting element (left element 16 or left element 81 in Figure 8) adapted to detect a brightness between the left eye and the display unit (14) and a second detecting element (right element 16 or right element 81 in Figure 8) adapted to detect a brightness between the right eye and the display unit (14) (see column 5, lines 19-39 and column 6, lines 31-40).

As to claim 22, Tanaka clearly teaches the display apparatus being mountable on a user's head (HMD); see column 5, lines 18-21.

As to claim 23, Tanaka clearly teaches the a first detecting element (left element 16 or left element 81 in Figure 8) adapted to detect a brightness between the left eye

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and the display unit (14) and a second detecting element (right element 16 or right element 81 in Figure 8) adapted to detect a brightness between the right eye and the display unit (14) (see column 5, lines 19-39 and column 6, lines 31-40). Tanaka also teaches the display apparatus being mountable on a user's head (HMD); see column 5, lines 18-21.

As to claims 24 and 26-28, these claims differ from claims 19 and 21-23 only in that claims 19 and 21-23 are apparatus whereas claims 24 and 26-28 are method. Thus, method claims 24 and 26-28 are analyzed as previously discussed with respect to apparatus claims 19 and 21-23.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka in view of Shimada (U.S. Patent No. 5,640,171).

As to claims 20, note the discussion of Tanaka above, Tanaka does not mention a contrast adjusting unit. Shimada teaches using an adjusting value switching circuit (3) for adjusting contrast, brightness; see column 4, lines 29-44. Thus, combining contrast adjusting unit (3) Shimada to the light quantity changing device of Tanaka would meet the claimed limitation "a first contrast" and "a second contrast" as recited in

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claim since Tanaka teaches two detecting elements. Therefore, it would have been obvious to one of ordinary skill in the art at the invention was made to have used the contrast adjusting unit (3) of Shimada to the light quantity changing device of Tanaka so as to avoided flicker being caused in the right and left LCDs (see column 1, lines 34-40 of Shimada).

As to claim 25, this claims differs from claim 20 only in that claim 20 is apparatus whereas claim 25 is method. Thus, method claim 25 is analyzed as previously discussed with respect to apparatus claim 20.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 19-28 have been considered but are moot in view of the new ground(s) of rejection.

In view of amendment, the references of Tanaka and Shimada have been added for new ground of rejection.

### **Inquiries**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanh Nguyen whose telephone number is (703) 308-6603.

If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, Steven Saras can be reached at 305-9720.

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**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**(703) 872-9306**

Hand-delivered responses should be brought to Crystal Park II, 2121

Crystal Drive, Arlington, VA, Sixth Floor (Receptionist)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

CN

C. Nguyen

November 28, 2003

  
CHANH NGUYEN  
PRIMARY EXAMINER